

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

MARION C. WARREN §  
v. § CIVIL ACTION NO. 6:11cv388  
JOHN RUPERT, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE

The Plaintiff Marion Warren, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. The lawsuit was originally referred to the undersigned United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges; however, the parties have subsequently consented to allow the undersigned Magistrate Judge to enter final judgment in the case pursuant to 28 U.S.C. §636(c).

Warren filed a motion for a default judgment after an answer was ordered from the Defendants but was not timely received. The Court issued a show cause order, and the Attorney General for the State of Texas filed an affidavit attesting that the order to answer had not been received. An answer has now been filed and the case is proceeding normally.

On July 24, 2012, prior to the transfer of the case to the docket of the Magistrate Judge pursuant to the consent of the parties, the undersigned Magistrate Judge issued a Report recommending that the Plaintiff's motion for default judgment be denied. The parties did not file objections to this Report; accordingly, they are barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and

adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in the case as well as the Report of the Magistrate Judge originally issued. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 55) is hereby ADOPTED as the opinion of the Court. It is further

ORDERED that the Plaintiff's motion for a default judgment (docket no. 24) is hereby DENIED.

**So ORDERED and SIGNED this 9th day of September, 2012.**



JOHN D. LOVE  
UNITED STATES MAGISTRATE JUDGE